

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6863**

**BILL NUMBER: SB 209**

**NOTE PREPARED:** Dec 28, 2002

**BILL AMENDED:**

**SUBJECT:** Merchant Power Plants.

**FIRST AUTHOR:** Sen. Gard

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
☐ **FEDERAL**

**IMPACT:** State

**Summary of Legislation:** This bill requires a person seeking to construct a merchant power plant in Indiana to file a petition with and receive siting approval from the Indiana Utility Regulatory Commission (IURC). The bill allows the IURC to approve the siting of a merchant power plant if the plant will not be adverse to the interests of local residents and all Indiana citizens. The bill specifies factors that the IURC must consider in acting upon a siting petition. It requires a petitioner to demonstrate that it has considered: (1) brownfields; (2) sites of existing or former utilities; and (3) sites identified for power plant and heavy industrial use in local plans; for the siting of the merchant power plant. The bill requires the IURC to obtain a recommendation from the Department of Natural Resources concerning the potential effect of a merchant power plant on its proposed water resource. It requires a petitioner to file proof of financial responsibility with the IURC to cover expenses associated with decommissioning the merchant power plant upon closure. The bill requires the IURC to hold a hearing and receive testimony upon each petition to site a merchant power plant. The bill requires a merchant power plant to submit certain reports to the IURC upon receiving siting approval. The bill allows the IURC to revoke its approval of a merchant power plant if the plant does not operate in accordance with the IURC's order of approval. It provides that information concerning a merchant power plant's fuel arrangements or electric sales is not a public record.

The bill requires the State Utility Forecasting Group to conduct an annual power market study to assess the regional needs for and effects of merchant power plants.

**Effective Date:** Upon passage.

**Explanation of State Expenditures:** *IURC:* This bill places merchant power plants under the jurisdiction of the IURC. Under this proposal, a new merchant power plant would be required to petition the IURC for

approval to construct the facility. The bill requires the IURC to consider a variety of issues when considering a petition to approve a new plant. The bill also requires the Commission to establish rules and standards related to a potential plant's closure. The IURC is required by this bill to give preference to brownfield sites, sites of existing plants, or other sites identified for power plant or heavy industrial development in local land use plans. Additionally, the IURC would be required to conduct hearings at a location in a county in which the merchant power plant is proposed.

*State Utility Forecasting Group:* The bill expands the scope of the State Utility Forecasting Group. It requires the Group to conduct an annual regional power market study on the needs for, and impacts of, merchant power plants in the region. The Group's activities are funded by the IURC.

These provisions are expected to increase the administrative costs of the IURC and OUCC. However, it is presumed that any increase will be covered using existing resources or through the funding mechanisms currently available in statute. (See *Background on IURC and OUCC Funding*, below)

*DNR:* The bill requires the Department of Natural Resources (DNR) to make a recommendation to the IURC regarding a proposed merchant power plant's planned use of and its potential effect on water resources. The bill allows the Department to make its recommendation based on a specified assessment provided by the petitioning power plant or through the Department's own activities. The impact of this bill on the DNR will depend on the number of powerplants that petition the IURC and on the specific requirements of each site.

*Background on IURC and OUCC Funding:* The operating budgets of the IURC and OUCC are funded by regulated utilities operating in Indiana. The IURC determines the rate at which to bill the utilities based on the two agencies' budgets, less reversions, divided by the total amount of gross intra-state operating revenue received by the regulated utilities for the previous fiscal year. Based on this formula, utilities are currently billed approximately 0.10% of their gross intra-state operating revenues to fund the IURC and OUCC. In FY 2002, fees from the utilities and fines generated approximately \$9.5 M.

*Background Information on Merchant Power Plants:* As of October 2002, there were eight merchant-type power plants operating in Indiana. Twelve merchant plants are pending or are under construction.

#### **Explanation of Local Expenditures:**

#### **Explanation of Local Revenues:**

**State Agencies Affected:** Indiana Utility Regulatory Commission; Office of the Utility Consumer Counselor; Department of Natural Resources.

**Local Agencies Affected:** Local planning authorities.

**Information Sources:** 2002 Electric Report to the Regulatory Flexibility Committee, IURC; Auditor's Trial Balance FY 2002.

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